

December 3, 1976

Mr. Herbert Schroeder, Jr.
7910 Kendelia
Houston, Texas 77036

Dear Mr. Schroeder:

This is in reply to your letter dated September 14, 1976, concerning a 12-inch natural gas pipeline installed about 1955 across an existing drainage ditch on your property in Colorado County, Texas.

The Federal regulations for the "Transportation of Natural and Other Gas by Pipeline," Part 192, Title 49 of the Code of Federal Regulations (copy enclosed), became effective November 12, 1970. Section 192.327 of the regulations prescribes minimum cover for transmission lines and mains measured at the time of construction from the ground surface or the bottom of a drainage ditch, as applicable. However, Section 192.327 would not apply to the cover provided for the pipeline on your property since the line was constructed prior to the effective date of the rule.

The Federal regulations do not prohibit a pipeline from obstructing the natural flow of a drainage ditch. Nevertheless, such an obstruction may infringe on the rights of landowners provided by common law and you may wish to seek the advice of an attorney on this question.

Sincerely,

\signed\

Cesar DeLeon
Acting Director
Office of Pipeline
Safety Operations

Enclosure

September 14, 1976

Department of Transportation
Washington, D.C.

Dear Sirs:

I have a drainage ditch that runs through my property in Colorado County, Texas. This drainage ditch was put down in approximately 1900. The drainage ditch was put down by a railroad company to move water away from a small railroad town. Contracts were entered into from time to time whereby the County came in and cleared out this drainage ditch although no formal easement was granted to the county government for the ditch.

In about 1955 a pipeline came through the tract of land. They lowered their line very little, if any, for this drainage ditch although it was clearly visible on the ground even to the most amateur observer. In fact, the water now backs up in the drainage ditch and has a very difficult time corssing [sic] the pipeline since they left very little ditch at the point at which they intersected. I might add that water once backed up into one man's house because of this. The result is that this 12 inch gas line may only have about 12 inches of cover over it in the ditch at the present item, and I would like to go in now and clear out this ditch as I am trying to develop this property. I am afraid, however, that if I went in and cleared it out the way it was before the pipeline came through there would only be a few inches of coverage above the pipeline if that much.

I have contacted the pipeline company on this matter, and at first they denied there was a drainage ditch there when they laid the line down.

Then after I showed them aerial maps taken about that time, and other information I had, they argued that even if it was there at that time, since no one has complained to them in about 20 years, they should not have to do anything.

I have tried to explain to them that there is only going to be problems once in about 20 years when a real strong rain falls in the area, but that a number of houses could have water in them when that happens. They still maintain, however, that if I want to go in and clear out this old ditch, I must first lower the pipeline--all at my expense.

Please advise me:

(1) If a pipeline is being laid and they come to a drainage ditch, what obligations do the pipeline company have in this area? Can they obstruct the natural flow of the drainage down the ditch?

(2) Are there any requirements on how long this high pressure gas line must be below the bottom of a drainage ditch? Below normal surface level?

Please respond to me at this address:

Herbert Schroeder, Jr.
7910 Kendelia
Houston, Texas 77036

Thank you.

Sincerely,

\signed\

Herbert A. Schroeder, Jr.